



"Neil P. Reiff"  
<reiff@sandlerreiff.com>  
>

05/10/2011 03:01 PM

To  
cc  
bcc  
Subject: MUR 6464

The attached constitutes the response of the South Carolina Democratic Party in MUR 6464.

Please note our firm's new name and address below.

Neil P. Reiff

Sandler, Reiff, Young & Lamb, P.C.  
1025 Vermont Ave., NW  
Suite 300  
Washington, D.C. 20005  
w. (202) 479 - 1111  
f. (202) 479 - 1115

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# SANDLER, REIFF, YOUNG & LAMB, P.C.

May 9, 2011

Jeff S. Jordan, Esq.  
Office of the General Counsel  
Federal Election Commission  
999 E Street, NW  
Washington, DC 20463

Re: MUR 6464

Dear Mr. Jordan:

The undersigned represents the South Carolina Democratic Party ("SCDP") and Marc Fosner, in his official capacity as Treasurer. By this letter, my clients respond to a complaint filed by Lanneu H. Siegling, Sr. In the complaint, Mr. Siegling alleges that respondents violated the restriction on soft money expenditures on "Federal Election Activities" at 2 U.S.C. § 431(20) and 11 C.F.R. § 100.24(a).

This complaint has no merit and should be dismissed by the Commission. Other than providing selected pages from reports filed by the SCDP with the South Carolina Ethics Commission, the complaint does not provide any facts from which the Commission could conclude that there is any reason to believe that the SCDP violated any provision of the Act or the Commission's regulations.

The sole basis for the complaint is that, on the SCDP's report, it used the phrase "party development" in its description. The use of this description is a term of art for purposes of South Carolina reporting, and in no way, should imply that the disbursements made by the SCDP were subject to any provision of the Act or the Commission's regulations.

To be sure, each disbursement referenced in the complaint was for persuasion communications that solely referenced non-federal candidates. Furthermore, none of the communications referenced in the complaint contained any activity that would trigger the Act's or Commission's regulations regarding Federal Election Activity that were in effect during the 2010 election cycle. See 11 C.F.R. § 100.24.<sup>1</sup> Under the rules in place during the 2010 election, the only possible regulation that these communications could possibly

<sup>1</sup> Although the Commission amended portions of these regulations, those changes did not take effect until after the 2010 election cycle. See 75 Fed. Reg. 53257 (September 10, 2010).

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trigger were the Commission's regulations regarding get-out-the-vote. 11 C.F.R. § 100.24(a)(3). 71 Fed. Reg. 8926, 8928 (February 22, 2006). Under the rules in place during the 2010 cycle, get-out-the-vote required some level of assistance to the voter, including offering assistance to get to the polls, or provide the voter, through individualized contacts, information regarding polling places and the time polls were open. In addition, the mere inclusion of the date of an election did not constitute assistance as contemplated by the get-out-the-vote regulation. FEC Advisory Opinion, 2006-19.

As demonstrated by the documents attached to the Declaration by SCDP Executive Director, Jay Parnley, each of the communications referenced in the complaint were properly paid for by the SCDP non-federal account. Each communication only referenced non-federal candidates. Furthermore, none of the communications contained any information that "assisted" the reader in the act of voting as required by former 11 C.F.R. § 100.24(a)(3).

Based upon the above, the complaint has not stated any facts that could lead to a conclusion that any provision of the Act or the Commission's regulations has been violated and must therefore be dismissed.

If you have any questions regarding this matter, feel free to contact me at (202) 479-1111.

Sincerely,



Neil Reiff  
Counsel for Respondents